

RESOLUTION NO. 2012- 32

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ST. JOHNS COUNTY; PROVIDING FOR THE EFFECT OF RECITALS; AUTHORIZING THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE THE AGREEMENT AND SUPPLEMENTAL DOCUMENTATION; PROVIDING FOR CORRECTION OF ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Environmental Protection ("DEP"), and St. Johns County (the "County") desire to enter into FDEP-St. Johns County Local Sponsor Agreement, attached hereto and incorporated herein, authorizing the County to act as Local Sponsor for the St. Augustine Beach Re-nourishment Project and to provide post construction monitoring efforts required under the FDEP permit for the project issued to the USACE; and

WHEREAS, the COUNTY has reviewed the terms, provisions, and requirements of the Agreement, and has determined that accepting the terms of the Agreement serves the public interests of the citizens of St. Johns County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and such Recitals are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, conditions, provisions, and requirements of the FDEP-St. Johns County Local Sponsor Agreement, and authorizes the County Administrator, or designee, to execute a written agreement substantially in the form of the attached Agreement, on behalf of the County.

Section 3. The Board of County Commissioners further authorizes the County Administrator, or designee, to execute any supplement paperwork/documentation necessary to accomplish the overall goal set forth in the Agreement.

Section 4. To the extent that there are typographical, administrative or scrivener's errors that do not change the tone, tenor or concept of this Resolution, then this

Resolution may be revised without further action by the Board of County Commissioners.

Section 5. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 7th day of February, 2012.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

ATTEST:

BY:


Deputy Clerk


Mark Miner ---Chair

RENDITION DATE 2/13/12



State of Florida Department of Environmental Protection

In re: File No. 0295429-002-JC
St. Johns County Beach Nourishment

LOCAL SPONSOR AGREEMENT

THIS AGREEMENT is entered into between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "DEPARTMENT") whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 and ST. JOHNS COUNTY, a local government, (hereinafter referred to as the "COUNTY"), whose address is 500 San Sebastian View, St. Augustine, Florida 32084, for the project described herein.

- I. WHEREAS, the Florida Department of Environmental Protection (Department) issued Joint Coastal Permit (JCP) No. 0295429-002-JC to the U.S. Army Corps of Engineers (hereinafter referred to as the "CORPS") on September 26, 2011, authorizing nourishment of St. Johns County beaches using sand dredged from an offshore borrow area and Vilano Point (aka Porpoise Point), as described in the cited Joint Coastal Permit which entitles "the Project" as the St. Johns County Beach Nourishment (JCP No. 0295429-002-JC, "the Permit" is attached hereto as exhibit A); and
- II. WHEREAS, the Project is part of a Congressional authorization, which provides for a federal Beach Erosion Control Project for St. Johns County; and
- III. WHEREAS, issuance of a joint coastal permit under Chapter 161 and part IV of Chapter 373 of the Florida Statutes constitutes certification of compliance with stated water quality standards pursuant to section 401 of the Clean Water Act, 33 U.S.C. § 1341; and where applicable constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by section 307 of the Coastal Zone Management Act, 16 U.S.C. § 1456, 15 C.F.R. Part 930, and section 380.23 of the Florida Statutes; and
- IV. WHEREAS, St. Johns County, as the "Local Sponsor," is a partner with the Corps for the Project; and
- V. WHEREAS St. Johns County, the USACE, and the Department have jointly agreed to allow St. Johns County to be responsible for certain monitoring and contingency mitigation requirements of JCP Permit 0295429-002-JC ; and
- VI. WHEREAS, this agreement is entered into in consideration of the issuance by the Department of JCP Permit No.0295429-002-JC.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL BENEFITS TO BE DERIVED HEREFROM, AND BASED UPON THE AFOREMENTIONED CLAUSES, the DEPARTMENT and the COUNTY do hereby agree as follows:

Section 1.

St. Johns County shall implement the terms of this Agreement. Changes to the conditions specified below shall require a signed amendment to this agreement, or execution of a new agreement that supersedes this agreement.

Details of the aforementioned monitoring and mitigation requirements that are not specifically outlined in this agreement may subsequently be altered with written concurrence from the Department, in consultation with Florida Fish and Wildlife Conservation Commission (FWC) when appropriate.

Section 2.

Unless otherwise specified in the conditions below, all reports and notices relating to this agreement and associated monitoring and mitigation plans shall be sent to the Department's Bureau of Beaches and Coastal Systems, JCP Compliance Officer, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000 (E-mail: JCPCompliance@dep.state.fl.us). **All required submittals shall clearly indicate the statement "This submittal is in partial satisfaction of the Local Sponsor Agreement for the St. Johns County Beach Nourishment Project, Permit Number 0295429-002-JC."** Also, please indicate the relevant condition/item numbers under the Local Sponsor Agreement and/or the monitoring plan that are being addressed.

Section 3. **Physical Monitoring.**

Prior to construction of the Project, St. Johns County shall submit a detailed Monitoring Plan subject to review and approval by the Department, as required by Specific Condition 43 of the Permit. If subsequent to approval of the Monitoring Plan there is a request for modification of the permit, the Department may require revised or additional monitoring requirements as a condition of approval of the permit modification. As guidance for obtaining Department approval, the plan shall contain the following items:

a. Topographic and bathymetric profile surveys of the beach and offshore shall be conducted within 90 days prior to commencement of construction, and within 60 days following completion of construction of the project. Thereafter, monitoring surveys shall be conducted annually for a period of three (3) years, then biennially until the next beach nourishment event or the expiration of the project design life, whichever occurs first. The monitoring surveys shall be conducted during a spring or summer month and repeated as close as practicable during that same month of the year. If the time period between the immediate post-construction survey and the first annual monitoring survey is less than six months, then the local sponsor may request a postponement of the first monitoring survey until the following spring/summer. The request should be submitted as part of the cover letter for the post-construction report.

The monitoring area shall include profile surveys at each of the Department of Environmental Protection's DNR reference monuments within the bounds of the beach fill area and along the adjacent shoreline on both sides of the beach fill area between R-80 and R-157. All work activities and deliverables shall be conducted in accordance with the latest update of the Bureau of Beaches and Coastal Systems (BBCS) *Monitoring Standards for Beach Erosion Control Projects, Sections 01000 and 01100.*

b. Bathymetric surveys of the inlet shoal complex containing the borrow area(s) shall be conducted within 90 days prior to commencement of construction, and within 60 days following completion of

construction of the project concurrently with the beach and offshore surveys required above.

The bathymetric survey shall encompass the entire inlet shoal complex, including the navigation channels and attachment bars. Survey grid lines shall be spaced to provide sufficient detail for accurate volumetric calculations but spaced not more than a maximum of 500 feet apart. In all other aspects, work activities and deliverables shall be consistent with the *BBCS Monitoring Standards for Beach Erosion Control Projects, Section 01200*.

c. The local sponsor shall submit an engineering report and the monitoring data to the BBCS within 90 days following completion of the post-construction survey and each annual or biennial monitoring survey.

The report shall summarize and discuss the data, the performance of the beach fill project, and identify erosion and accretion patterns within the monitored area, including the adjacent shoreline on both sides of the fill placement area. In addition, the report shall include a comparative review of project performance to performance expectations and identification of adverse impacts attributable to the project. Furthermore, the report shall include an ebb shoal bathymetric analysis and comparative review of ebb shoal evolution.

Appendices shall include plots of survey profiles and graphical representations of volumetric and shoreline position or contour changes for the beach and inlet monitoring areas. Results shall be analyzed for patterns, trends, or changes between annual surveys and cumulatively since project construction.

d. Two paper copies and one electronic copy of the monitoring report, and one electronic copy of the survey data shall be submitted to the Bureau of Beaches and Coastal Systems in Tallahassee. Failure to submit reports and data in a timely manner constitutes grounds for revocation of the permit. When submitting any monitoring information to the Bureau, please include a transmittal cover letter clearly labeled with the following at the top of each page: **"This monitoring information is submitted in accordance with Item No. [XX] of the approved Monitoring Plan for Permit No. 0295429-002-JC for the monitoring period [XX]."**

e. The County will be responsible for performing the tasks in the Physical Monitoring Plan except for the surveys of the beach and offshore within 90 days prior to commencement of construction and within 60 days following completion of construction of the project as discussed above since this will be performed by the Corps.

Section 4. Tilling Requirements. Immediately after completion of the beach fill placement event and prior to April 1 for three subsequent years after completion of the beach fill placement event, if placed sand still remains on the beach, the County shall till the nourished beach as described below or follow the procedure outlined below to request a waiver of the tilling requirement, as required by Specific Condition 15 of the Permit. During tilling, at a minimum, the protocol provided below shall be followed:

a. The area shall be tilled to a depth of 36 inches. All tilling activity must be completed prior to April 1. Each pass of the tilling equipment shall be overlapped to allow more thorough and even tilling. Tilling should occur landward of the wrack line and avoid all vegetated areas 3 square feet or greater with a 3 foot buffer around the vegetated areas.

b. An annual summary of compaction surveys and the actions taken shall be submitted to the FWC at marineturtle@myfwc.com.

c. If the project is completed just before the nesting season, tilling shall not occur in areas where nests have been left in place or relocated unless authorized by the FWS in an Incidental Take Statement.

d. This condition shall be evaluated annually and may be modified if necessary to address sand compaction problems identified during the previous year.

Section 5. Compaction Requirements.

To request a waiver of the tilling requirement, the County may measure sand compaction in the area of restoration in accordance with a protocol agreed to by the FWC, the Department, the U.S. Fish & Wildlife Service, and the applicant to determine if tilling is necessary (as also specified in Specific Condition 16 of the Permit). The protocol consists of the following:

a. Compaction sampling stations shall be located at 500-foot intervals along the project area. One station shall be at the seaward edge of the dune/bulkhead line (when material is placed in this area) and one station shall be midway between the dune line and the high water line (normal wrack line).

b. At each station, the cone penetrometer shall be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes, especially if sediment layering exists. Layers of highly compact material may lie over less compact layers. Replicates shall be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments.

c. The three replicate compaction values for each depth shall be averaged to produce final values for each depth at each station. Reports shall include all 18 values for each transect line, and the final 6 averaged compaction values.

d. If the average value for any depth exceeds 500 psi for any two or more adjacent stations, then that area shall be tilled prior to March 1. If values exceeding 500 psi are distributed throughout the project area but in no case do those values exist at two adjacent stations at the same depth, then consultation with the FWC shall be required to determine if tilling is required. If a few values exceeding 500 psi are present randomly within the project area, tilling shall not be required.

Section 6. Escarpment Surveys.

The County shall perform visual surveys for escarpments along the beach fill area between March 15 and April 15 for three subsequent years after completion of the beach fill placement event if placed sand still remains on the beach. All scarps shall be leveled or the beach profile shall be reconfigured to minimize scarp formation (as required in Specific Condition 17 of the Permit). In addition, weekly surveys of the project area shall be conducted during the two nesting seasons following completion of fill placement as follows:

a. The number of escarpments and their location relative to DNR-DEP reference monuments shall be recorded during each weekly survey and reported relative to the length of the beach surveyed (e.g., 50% scarps). Notations on the height of these escarpments shall be included (0 to 2 feet, 2 to 4 feet,

and 4 feet or higher) as well as the maximum height of all escarpments.

b. Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet shall be leveled to the natural beach contour by April 15. Any escarpment removal shall be reported relative to R-monument.

c. If weekly surveys during the marine turtle nesting season document subsequent reformation of escarpments that exceed 18 inches in height for a distance of 100 feet, the FWC shall be contacted immediately to determine the appropriate action to be taken. Upon written notification, the permittee shall level escarpments in accordance with mechanical methods prescribed by the FWC.

Section 7. Lighting Survey.

Two lighting surveys shall be conducted of all artificial lighting visible from the nourished berm (as required in Specific Condition 18 of the Permit). The first survey shall be conducted between May 1 and May 15 the first nesting season following construction or immediately after placement if construction is not completed until after May 15, and a second survey between July 15 and August 1. The surveys shall be conducted by the County and should be conducted to include a landward view from the seaward most extent of the new beach profile. The survey should follow standard techniques for such a survey and include number and type of visible lights, location of lights and photo documentation. For each light source visible, it must be documented that the property owner(s) have been notified of the problem light with recommendations for correcting the light. Recommendations must be in accordance with the St. Johns County Beachfront lighting restrictions for the protection of sea turtles (Ordinance No. 99-33).

In addition to local code enforcement, actions must be taken by the County to ensure that no lights or light sources are visible from the newly elevated beach. A report summarizing all lights visible, using standard survey techniques for such surveys, shall be submitted to FWC Imperiled Species Management Section (marineturtle@myfwc.com) by the 1st of the month following survey. A summary report documenting what corrective actions have been taken provided and all compliance and enforcement actions shall also be submitted by December 15 of that year. After the annual report is completed, a meeting shall be set up with the Local Sponsor, County or municipality, FWC and the FWS to discuss the survey report as well as any documented sea turtle disorientations in or adjacent to the project area.

Section 8. Beach Contours.

The County shall conduct shorebird surveys (as required in Specific Condition 31 of the Permit) at least ten (10) days prior to any tilling or scarp removal that occurs during shorebird nesting season, starting February 15. Tilling or scarp removal in areas where nesting birds are present shall be avoided.

a. A relatively even surface, with no deep ruts or furrows, shall be created during tilling. To do this, chain-linked fencing or other material shall be dragged over those areas as necessary after tilling.

b. The slope between the mean high water line and the mean low water line must be maintained in such a manner as to approximate natural slopes.

Section 9. Marine Turtle and Shorebird Protection.

The County hereby agrees to perform the following:

- a. Specific Condition 10 of the Permit for marine turtle nest surveys. This Condition stipulates that nesting surveys be initiated 65 days prior to sand placement or by April 15, whichever is later, and continue through September 30. Hatchling and emergence success monitoring will involve checking nests beyond the completion date of the daily early morning nesting surveys. Reports on all nesting activity shall be provided for the initial nesting season and for a minimum of two additional nesting seasons if placed material still remains on the beach.
- b. Specific Condition 27 of the Permit for shorebird surveys. This Condition stipulates that nesting season surveys shall begin on April 1 or 10 days prior to project commencement (including surveying activities and other pre-construction presence on the beach), whichever is later, and be conducted daily throughout the construction period or through August, whichever is earlier. If project activities continue after August 31 and active nests or fledglings remain on the beach, then weekly surveys of the project site shall continue until all hatchlings have fledged. The County shall perform nesting surveys in accordance with all provisions of Specific Condition 27, with the exception of items c. and d. below.
- c. During construction, the Corps' contractor will be solely responsible for compliance with the Specific Permit Conditions referenced in items a. and b. above instead of the County.
- d. Anastasia State Park personnel will perform items a. and b. within the Anastasia State Park instead of the County.
- e. The County will attend a pre-construction meeting held by the Corps to discuss sea turtle and shorebird protection measures.

Section 10

The County shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of section 768.28, Florida Statutes.

Section 11.

This Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action hereon or in connection herewith shall be brought in St. Johns County, Florida.

Section 12.

If a court deems any provision of this Agreement void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

Section 13.

This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been

reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed, the day and year last written below.

**STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**

**ST. JOHNS COUNTY,
FLORIDA**

**Danielle Fondren
Bureau of Beaches & Coastal Systems**

**Michael D. Wanchick
County Administrator
St. Johns County, Florida**

DATE

DATE

APPROVED as to form and legality:

Department of Environmental Protection Attorney

County Attorney